Historical Petition of Appeal Seeking Judicial Review of Procurement Prosecution

Educational sample 136 | Nairobi

Educational reconstruction from a reported Kenyan judgment. This is newly drafted text, not an original court filing and not a matter handled by our team. Identifying details are replaced with bracketed fields. Verify the facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE SUPREME COURT OF KENYA

PETITION OR APPLICATION NO [reference]

[APPELLANT OR APPLICANT] v [RESPONDENT]

PETITION OF APPEAL

1. The Appellants challenge the judgment reversing judicial review orders concerning the investigation recommendation and decision to prosecute them over rig moving procurement.

2. Article 163(4)(a) is invoked because the superior courts determined constitutional administrative justice and prosecutorial powers. The appeal does not invite a first criminal trial in the Supreme Court.

3. The challenged decisions and the separate counts must be identified precisely at [record pages]. The Appellants distinguish the role of the company officer from the roles of tender committee members.

4. They contend that the decisions lacked the required lawful and rational connection to their respective responsibilities. Any complaint of abuse must be supported by the actual decision materials, rather than an assertion of innocence alone.

5. They seek restoration of identified review relief. The source dismissed this historical appeal; a disputed defence or criticism of valuation does not automatically justify stopping a prosecution.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected party and address].

Use and evidence notes

Complete the court, parties, appealed decision and service fields. Rule 39 requires concise facts, grounds, supporting arguments, relief and an annexure schedule in Form G. This core pleading must accompany the applicable record and fee under rule 38. Establish the Article 163(4) gateway and check notice, filing and service dates. A historical losing argument is not a recommended new ground. Do not attempt to reopen a decided case merely by using this specimen.

Schedule of annexures: [index each relevant document by label, date, description and page]; [identify the appealed judgment]; [trial judgment or order]; [relevant pleadings]; [certification ruling, if applicable].

Source and procedural limits

Tender committee members and an officer of a state corporation challenged investigation and prosecution over rig moving services. The High Court granted judicial review relief, which was reversed on appeal. The Supreme Court considered the lawful scope of review and whether the criminal trial should proceed.

The Supreme Court dismissed the consolidated appeals and directed the Milimani anti corruption case to proceed on priority. Each party bore its own costs. Judicial review can examine legality and rationality, but it is not a replacement trial deciding the strength of the criminal defence.

Constitution Articles 47, 157 and 163(4)(a); Fair Administrative Action Act and judicial review limits. Distinguish abuse of prosecutorial power from disputed evidence, procurement valuation and trial defences. Allegations of innocence do not by themselves prove an unlawful decision to prosecute.

[2023] KESC 6 (KLR) — 27 January 2023. Original judgment: https://supremecourt.judiciary.go.ke/wp-content/uploads/2025/01/Supreme-Court-Law-Reports-2023-Vol-1.pdf#page=627

The original decision may identify participants. The specimen replaces their identifying details. A source decision is not proof that a draft was filed, that an allegation succeeded, or that the same result will follow in another case.